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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Advanced Television Systems)
and Their Impact Upon the)
Existing Television Broadcast)
Service)

MM Docket No. 87-268

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To: The Commission

**REPLY COMMENTS OF CURT R. DUNNAM ON THE
SIXTH NOTICE OF PROPOSED RULEMAKING**

Reply comments in the matter of the Commission's *Sixth Further Notice of Proposed Rule Making* (FCC 96-207, released August 14, 1996: "Sixth NPRM" or "Notice"), are hereby tendered by Curt R. Dunnam, d.b.a. Linear Research Associates ("LINEAR").

As previously noted, LINEAR is presently an applicant for NTSC facilities on UHF channel 52, allocated to Ithaca, New York (Application File No. BPCT-950320KM).¹ The undersigned, owner of LINEAR, will, in all likelihood, be directly affected by the Commission's eventual adoption or rejection of issues considered in this proceeding.

¹See Comments of Curt R. Dunnam on the Sixth Notice of Proposed Rulemaking, Nov. 22, 1996.

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COMMENTS

Based on its review of the above-referenced Notice and subsequent reply comments thereto, LINEAR respectfully submits the following Final Comments for due consideration by the Commissioners and Commissioners' Staff.

1. DTV Table of Allotments:

LINEAR proposes that the Commission follow the statutory provision for determining eligibility for the new DTV licenses, rather than imposing narrower restrictions on eligibility. Section 336 of the Communications Act of 1934, as added by the Telecommunications Act of 1996, discusses the issuance of DTV licenses. Subsection (a)(1) states that the Commission "should limit the initial eligibility for such licenses to persons that, as of the date of such issuance, are licensed to operate a television broadcast station or hold a permit to construct such a station (or both)."

The legislative history of this provision suggests that Congress intended that the new DTV licenses be available to those who are already authorized to broadcast. This would be in contrast to opening the licenses to the public generally. Furthermore, anyone holding an NTSC license or a permit as of the time the initial DTV licenses are issued is to be eligible for a new license; the date for determining eligibility is clearly to be set at the last possible moment, and this is just for the "initial eligibility."

Congress has placed no further restriction on those who become licensees or permittees after the initial round of issuing the new licenses. Thus, the Commission should similarly allow

those who acquire a permit or license after the initial eligibility to obtain a DTV license, if such a license can be issued without causing unacceptable interference with existing DTV allotments.

The statutory restriction was not imposed to make it more difficult to get a DTV license than to get a NTSC license. Instead, it was simply to assure an orderly transition from analog broadcasting to digital.

2. Processing of Current NTSC Applications:

LINEAR recommends that the Commission resist any suggestion that uncontested or otherwise immediately resolvable NTSC applications currently before it be held in abeyance pending finalization of the DTV table. Several compelling arguments favor timely processing of these primary applications. First, the number of applicants which fit this category represents a small fraction of the total number of standing files. It is reasonable to assume that the impact of including such assignments in the DTV table would be negligible. Second, a majority of these uncontested or summarily resolvable applications propose a new service to rural areas. Finally, NTSC facilities in these underserved areas, once granted, will inevitably require transition DTV channels. Harmonization of assignments during the transition period is therefore best served if these nascent facilities are included in the initial finalized DTV table.

To secure the advantage of local programming and significant diversity increase, undue delay in processing such applications must be avoided. LINEAR respectfully suggests that the Commission not adopt any *en masse* policy which fails to differentiate the above subset of applications from those which may require a hearing for proper resolution.

3. Core Spectrum Proposal:

LINEAR agrees that the Commission's initial core spectrum proposal offers an advantage over any existing "repacking" scheme. Delaying and repacking a large number of channels would likely prove highly disruptive at a later phase of the transition period.

In conjunction with immediate implementation of the core proposal, LINEAR strongly supports dedication of any spectrum auction revenue thereby derived to establishment of an endowment in behalf of the Corporation for Public Broadcasting.²

Respectfully submitted,

LINEAR RESEARCH
ASSOCIATES


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²*Second Report/Further Notice*, Separate Statement of Chairman Reed E. Hundt: "We could auction that spectrum for flexible use... including... funding PBS."